

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF MASSAGE THERAPY

TIME: 11:22 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Tuesday, February 14, 2023

1 State Board of Massage Therapy
2 February 14, 2023
3
4

5 BOARD MEMBERS:
6

7 Nancy M. Porambo, MS, LMT, CNMT, NCTMB, Chair,
8 Professional Member
9 Arion R. Claggett, Acting Commissioner, Bureau of
10 Professional and Occupational Affairs
11 Linda A. Chamberlain, MS, BSN, RN, CNDLTC, Secretary
12 of Health designee - Absent
13 Jessica A. Nelson, Office of Attorney General
14 designee - Absent
15 Dana J. Douglas, LMT
16 Vickiann Hicks, LMT, BCTMB, CCCA
17 Jennifer A. Keth, LMT, CNC
18 Imelda Alumbro Shade, LMT
19 Bryan Strawser, LMT, Vice Chair
20 Ellyn Jo Waller, Ed.D., Public Member - Absent
21
22

23 BUREAU PERSONNEL:
24

25 Thomas M. Davis, Esquire, Board Counsel
26 Dean F. Picarella, Esquire, Senior Counsel in Charge
27 Jacqueline A. Wolfgang, Esquire, Regulatory Counsel
28 Andrea L. Costello, Esquire, Board Prosecution
29 Liaison
30 Colby B. Widdowson, Esquire, Board Prosecutor
31 Christina Townley, Bureau of Professional and
32 Occupational Affairs Health Licensing Division,
33 Department of State
34 Paul Keller, Board Administrator
35 Carolyn A. DeLaurentis, Esquire, Executive Deputy
36 Chief Counsel, Department of State
37 Andrew LaFratte, MPA, Executive Policy Specialist,
38 Department of State
39 Amanda Richards, Acting Fiscal Chief, Bureau of
40 Finance and Operations, Department of State
41 Danie Bendesky, Director of Intergovernmental
42 Affairs, Department of State
43 Ryan Dumbroff, Student Intern, Office of General
44 Counsel
45 Deena Parmelee, Legal Office Administrator 1,
46 Department of State
47
48
49
50

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

State Board of Massage Therapy
February 14, 2023

ALSO PRESENT:

Edward Portley Jr., LMT, Just This Side of Heaven
Massage & Continuing Education for Massage
Therapists
Camille Baughman, MA, BSed, LMT, Camille Baughman &
Associates
Natalie Cook, Associate, McNees-Winter Group LLC,
representing the American Massage Therapy
Association Pennsylvania Chapter
Nina M. Kottcamp-Long, LMT, NCMT, Director of
Holistic Health and Wellness, Harrisburg Area
Community College
William Mullen, LMT, Manager, Massage Therapy
Program, Montgomery County Community College
MTR.MET
Brandon Arosi
Doreen Rigani
Kelly L. Dunn

1 ***

2 State Board of Massage Therapy

3 February 14, 2023

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:00 a.m. the Board entered into Executive Session
7 with Thomas M. Davis, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations
9 and to receive advice of counsel on the matters upon
10 which the Board will later vote. The Board concluded
11 executive session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Massage Therapy was held on Tuesday,
15 February 14, 2023. Nancy M. Porambo, MS, LMT, CNMT,
16 NCTMB, Chair, Professional Member, called the meeting
17 to order at 11:22 a.m.

18 ***

19 [Thomas M. Davis, Esquire, Board Counsel, noted the
20 meeting was being recorded, and those who continued
21 to participate were giving their consent to be
22 recorded.

23 Mr. Davis also noted the Board entered into
24 Executive Session prior to the Board meeting for the
25 purpose of conducting quasi-judicial deliberations

1 and to receive advice of counsel on the matters upon
2 which the Board would later vote.]

3 ***

4 Introduction of Board Members/Attendees

5 [Chair Porambo requested an introduction of Board
6 members and attendees.]

7 ***

8 Approval of minutes of the November 15, 2022 meeting

9 CHAIR PORAMBO:

10 Let's continue on with the approval of
11 the minutes from November 15.

12 Are there any changes to the
13 minutes?

14 ***

15 [The Board discussed corrections to the minutes.]

16 CHAIR PORAMBO:

17 Are there any other changes? none.

18 May I have a motion to accept the
19 minutes as amended?

20 MR. STRAWSER:

21 I make the motion.

22 MS. DOUGLAS:

23 I second the motion.

24 CHAIR PORAMBO:

25 Thank you.

1

2

Porambo, aye; Claggett, aye; Douglas,

3

aye; Hicks, aye; Keth, aye; Alumbro

4

Shade, aye; Strawser, aye.

5

[The motion carried unanimously.]

6

7

Appointment - Prosecution Division Annual Report

8

Presentation

9

[Carolyn A. DeLaurentis, Esquire, Executive Deputy

10

Chief Counsel, Department of State, informed Board

11

members that she is now the executive deputy chief

12

counsel for the Department of State but is presenting

13

to the Board on behalf of the prosecution division in

14

her former role to provide the presentation.

15

Ms. DeLaurentis presented to the Board to provide

16

a summary of the prosecution division's role and

17

present annual numbers for 2022. She informed Board

18

members that the Bureau of Professional and

19

Occupational Affairs provides administrative and

20

legal support to all 29 licensing boards and

21

commissions with the mission to protect the health

22

and safety of the public and the integrity of the

23

profession.

24

Ms. DeLaurentis explained that the Office of

25

Chief Counsel is under the Governor's Office of

1 General Counsel and assigned to the Department of
2 State, noting the prosecution division is one
3 division under the Office of Chief Counsel. She
4 noted the prosecution division works with the Bureau
5 of Enforcement and Investigation (BEI), along with
6 the Professional Compliance Office (PCO).

7 Ms. DeLaurentis stated BEI, PCO, and prosecution
8 are all tasked with receiving complaints,
9 investigating complaints, ensuring public safety, and
10 enforcing compliance with the acts and regulations
11 that govern the 29 licensing boards and commissions.

12 Ms. DeLaurentis stated the prosecution division
13 has five senior prosecuting attorneys because the
14 division is broken into five teams. She stated Karl
15 Geschwindt is now the acting senior counsel in charge
16 of the team that handles the Massage Therapy Board.
17 She also noted Heather McCarthy, Paul Jarabeck, Ray
18 Michalowski, and William Newport are senior counsel
19 for other boards.

20 She mentioned there are currently 32 prosecuting
21 attorneys serving under the senior attorneys,
22 including liaisons.

23 Ms. DeLaurentis addressed the complaint process,
24 noting that complaints may be received in any manner
25 the aggrieved party sees fit, but noting that the

1 preferred method of submission is through the
2 Pennsylvania Licensing System (PALS) at pals.pa.gov
3 because it is the most efficient. She noted
4 prosecution also accepts complaints from sibling
5 agencies, federal agencies, law enforcement, and
6 through media reports.

7 Ms. DeLaurentis discussed levels of review,
8 including jurisdiction checks, noting administrative
9 assistants review every complaint to see if it falls
10 under one of the 29 boards and commissions. She
11 mentioned complaints are referred to the appropriate
12 agency if prosecution does not have jurisdiction.

13 Ms. DeLaurentis stated that prosecution works
14 with BEI inspectors and investigators to determine
15 whether there is a violation. She noted BEI
16 interviews witnesses, gathers documents, and reviews
17 social media evidence.

18 Ms. DeLaurentis addressed the various levels of
19 review and how prosecution division determines
20 whether there was a violation. She explained that
21 matters could be closed if there is not a violation
22 of the act or regulation which allows prosecution to
23 devote resources

24 Ms. DeLaurentis discussed the post-investigation
25 process, where attorneys may need to make charging

1 decisions based on evidence by filing an "order to
2 show cause" or a citation. She noted there is a
3 hearing process, which is like a regular trial but
4 slightly less formal, where both sides can present
5 evidence and arguments.

6 Ms. DeLaurentis noted that if the matter is heard
7 by a hearing examiner, the hearing examiner usually
8 issues a proposed adjudication and then it goes to
9 the boards and commissions for their final decision
10 because they have the ultimate authority for
11 discipline. She addressed consent agreements, where
12 the parties negotiate a resolution which is then
13 presented to the Board, allowing the Board to accept
14 or reject the agreement.

15 Ms. DeLaurentis addressed the prosecution
16 division's role at Board meetings, including
17 presenting consent agreements and listening to
18 concerns of the Board. She pointed out that
19 prosecution has a confidentiality statute that
20 applies to their files, where all the contents within
21 their files is confidential under the law unless
22 presented publicly as part of a proposed consent
23 agreement and is why prosecution's files are kept
24 confidential except for the final disciplinary
25 action.

1 Ms. DeLaurentis stated BEI conducts
2 investigations and interviews, gathers evidence, and
3 conducts inspections for certain boards. She noted
4 the role of the investigators is fact gathering and
5 serving subpoenas, orders, and letters. She
6 mentioned that prosecution has subpoena authority,
7 but BEI does not have search warrant authority.

8 She noted BEI also testifies to the results of
9 their investigations and inspections. She also noted
10 they have inspection authority for six boards but do
11 not have statutory authority and cannot remain at
12 that location if asked to leave.

13 Ms. DeLaurentis addressed post-investigation,
14 where BEI is gathering facts and present it to the
15 legal office for review. She stated BEI is not
16 determining whether or not a law has been violated or
17 determining whether discipline should be issued
18 because that is the role of the prosecution division.
19 She noted prosecuting attorneys work with legal
20 analysts to determine whether there was a violation
21 to decide whether to close the matter or file
22 charges.

23 Ms. DeLaurentis addressed "immediate temporary
24 suspensions," where a licensee is an immediate danger
25 to the health and safety of the public, but the

1 licensee may request a hearing within 30 days, and
2 explained that immediate temporary suspensions are
3 different than the typical disciplinary process in
4 which prosecution files an order to show cause, and
5 the license remains active until the case is
6 resolved. She noted automatic suspensions include
7 involuntary mental health commitments, orders for
8 examination, and drug act violations. She also noted
9 "petitions for appropriate relief" are filed when
10 prosecution believes a licensee has violated a board
11 order.

12 Ms. DeLaurentis stated that levels of discipline
13 include revocations, suspensions, probations,
14 reprimands, fines, remedial education, and cost of
15 the investigation. She mentioned that some cases
16 could have more than one type of discipline and can
17 be found in more than one category in the report.

18 Ms. DeLaurentis referred to the confidentiality
19 statute under 63 Pa.C.S. § 3109, where prosecution
20 and investigative files are deemed privileged and
21 confidential under the law. She explained that
22 Department of State investigative files are deemed
23 noncriminal investigative records under the Right-to-
24 Know Law.

25 Ms. DeLaurentis stated the information could be

1 shared with other licensing boards, law enforcement,
2 and other agencies in furtherance of investigative
3 efforts, but only their final action could be shared
4 publicly, including final adjudications and orders,
5 final consent agreements, and final letters.

6 Ms. DeLaurentis provided data as of January 3,
7 2023, where the number of open cases for the
8 prosecution division was 13,154, which is down from
9 2022 at 15,141. She stated 16,084 cases were opened
10 in 2022 and is down from 2021 at 18,363 cases. She
11 reported closing 17,826 files in 2022 and is up from
12 2021, where 15,994 cases were closed. She thanked
13 the prosecution division, counsel division, hearing
14 examiners, BEI, and the Board for their group effort.

15 Ms. DeLaurentis informed Board members that an
16 annual report is issued to the General Assembly,
17 which includes a breakdown of case categories, and
18 would notify Counsel when the report is available.

19 Ms. DeLaurentis addressed specific information
20 for the State Board of Massage Therapy, noting 149
21 cases were opened in 2022 and 175 in 2021. She noted
22 160 cases were closed in 2022 and 222 in 2021. She
23 noted 127 open cases as of January 3 and 137 at the
24 same time last year.

25 Ms. DeLaurentis referred to disposition of closed

1 cases, including discipline and non-discipline. She
2 reported 23 Act 48 fines in 2022 and 18 in 2021, 16
3 regular fines and 15 in 2021, 3 probations in 2022
4 and 0 in 2021, 6 revocations, and 18 voluntary
5 surrenders. She noted revocations and voluntary
6 surrenders were consistent at 14 last year and 12 the
7 prior year. She reported 17 suspensions in 2022 and
8 12 in 2021.

9 Ms. DeLaurentis addressed closed cases without
10 discipline and referred to "Z codes" used when
11 closing cases, when prosecution is not warranted.

12 Ms. DeLaurentis addressed warning letters, noting
13 warning letters are not discipline but help maintain
14 the integrity of the profession by attempting to
15 correct any behavior that may become an issue and are
16 given for de minimis (minor) violations.

17 Chair Porambo thanked Ms. DeLaurentis for the
18 presentation.]

19 ***

20 Report of Board Prosecutors

21 [Andrea L. Costello, Esquire, Board Prosecution
22 Liaison, presented the Consent Agreement for Case No.
23 21-72-006891.]

24 MR. DAVIS:

25 Based on the Board's discussions in

1 Executive Session, I believe the Chair
2 would accept a motion to approve the
3 Consent Agreement in the following
4 matter: Case No. 21-72-006891.

5 CHAIR PORAMBO:

6 Do I have a motion?

7 MR. STRAWSER:

8 I'll make the motion.

9 CHAIR PORAMBO:

10 Do we have a second?

11 MS. DOUGLAS:

12 I second the motion.

13 MR. KELLER:

14 Porambo, aye; Claggett, aye; Douglas,
15 aye; Hicks, aye; Keth, aye; Alumbro
16 Shade, aye; Strawser, aye.

17 [The motion carried unanimously. That is
18 Commonwealth BPOA v. Lawrence T. Ford, LMT.]

19 ***

20 MR. DAVIS:

21 Number 10 on the Board's agenda. I
22 received an email from the Board
23 prosecutor, Colby Widdowson, this
24 morning asking that it be tabled.

25 ***

1 Report of Board Regulatory Counsel

2 [Thomas M. Davis, Esquire, Board Counsel, noted the
3 Board currently has five active regulations with
4 movement on three of those between the last meeting
5 and now. He referred to 16A-726 regarding massage
6 therapists in cosmetology and esthetician salons and
7 informed Board members that the Office of Attorney
8 General approved the proposed regulation on January
9 31, 2023, and the next step would be publishing it in
10 the *Pennsylvania Bulletin*. He noted the regulation
11 is being jointly promulgated with the Cosmetology
12 Board regulations and the Board may hold off until
13 that regulation is also approved.

14 Mr. Davis informed Board members that he received
15 feedback from regulatory counsel for Act 41 regarding
16 licensure by endorsement. He noted the former
17 Chairperson was also on the Applications Committee
18 and took issue with the fact that sometimes the Board
19 would receive an application, where the individual
20 took the national exam 20 years ago which would then
21 beg the question, how does the Board know the
22 individual has current competency.

23 Mr. Davis noted a suggestion was made to amend
24 the regulations to add the requirement that the
25 applicant for original licensure by examination have

1 passed the MBLEx within the past five years. He
2 noted the Board voted to remove this particular
3 proposed amendment from the general revisions
4 regulation but noted the language is still in Act 41.

5 He mentioned a previous Board discussion where the
6 Board discussed licensure by endorsement under Act 41
7 if the person tries to obtain licensure by
8 endorsement, being that they have a license under
9 another jurisdiction, but they do not check all the
10 boxes under Act 41, oftentimes the Board has been
11 able to consider the application under licensure by
12 examination.

13 Mr. Davis stated that adding the five-year
14 stipulation to the regulations would make it more
15 difficult to license some individuals, those who have
16 a license in another jurisdiction but do not qualify
17 for licensure by endorsement, and suggested the Board
18 remove that from the Act 41 regulations. He informed
19 Board members that he would remove it after hearing
20 no opposition to removing it.

21 Mr. Davis referred to 16A-729 regarding virtual
22 supervision, noting the Board voted to release an
23 exposure draft at the November 15, 2022 meeting and
24 received one comment from Nicole Campbell, Division
25 Chief, Division of Law Enforcement Education and

1 Trade Schools at the Pennsylvania Department of
2 Education. He stated the regulation concerns the
3 possibility of allowing a certain number of the 600
4 hours of in-class education hours to be obtained via
5 computer-based, synchronous videoconferencing.

6 Mr. Davis noted Ms. Campbell suggested clarifying
7 that the contact hours be "in-person residential
8 instruction." He stated the Board already defined
9 contact hours as in person but would look into
10 whether the definition needs to be extended. He
11 noted the regulations currently read, a certain
12 number of hours must be earned through contact hours
13 and the other number must be through whatever means
14 necessary.

15 Mr. Davis noted Ms. Campbell suggested clarifying
16 all three items under both the hours required for in
17 person and hours related to online. He offered to
18 look into it but believed the Board's intent is
19 clear.

20 Mr. Davis referred to another question asking
21 whether the State Board of Massage Therapy is opposed
22 to asynchronous instruction for the initial 600 hours
23 of education. He noted prior Board discussion of
24 synchronous online instruction, where the individual
25 can converse with the instructor simultaneously

1 because of Act 100 of 2021, which strongly suggested
2 boards develop regulations to allow more online
3 instruction.

4 Mr. Davis noted the Act defines virtual platform
5 as live-stream synchronous videoconferencing or
6 similar virtual presence technology. He noted that if
7 the Board is going to lean on Act 100 to allow any
8 portion of the initial education to be online, he
9 believed the Board is empowered as long as it is
10 synchronous and not asynchronous.

11 Mr. Davis stated the Practice Act specifically
12 states 600 hours of in-class supervision and Act 100
13 talks about virtual supervision, where it must be
14 done in a virtual platform defined as livestream
15 synchronous videoconferencing or similar virtual
16 presence.

17 Mr. Davis addressed continuing education (CE),
18 noting the Board was previously not interested in
19 allowing more online education. He noted the statute
20 requires 24 hours of continuing education biennially,
21 and the Board decided a minimum of 16 hours of those
22 24 must be earned through contact hours. He
23 suggested having a discussion regarding additional
24 online hours to the continuing education requirement
25 to the next agenda.

1 Chair Porambo commented that the Board would also
2 be revisiting the initial education one more time to
3 look at the hours for baseline education programs and
4 will now be looking at both at the next meeting.

5 Mr. Davis addressed the proposed fee regulation,
6 noting the Bureau of Finance and Operations (BFO)
7 discussed the Board's current financial state at the
8 last meeting and suggested fees be raised moving
9 forward. He referred to option 1 on the agenda,
10 where BFO asked whether they could have a fee
11 regulation in place for the February 2025 renewal
12 cycle, but Mr. Davis felt that promulgating a fee reg
13 before the 2025 renewal was unlikely to happen, and
14 the Board only discussed option 2, which is not
15 putting anything new into effect until the 2027
16 renewal cycle.

17 Mr. Davis stated that in the time since the last
18 meeting, Mr. Davis reviewed BFO's proposal, and he
19 now believes that, should the Board wish to increase
20 fees, the Board would be better off going with the
21 first option because in option 1, the
22 highest/ultimate renewal fee is \$260, whereas the
23 highest/ultimate renewal fee in option 2 is \$305. He
24 noted the current renewal fee is \$175. He discussed
25 the Board's controlling statute which specifically

1 states that if the revenues raised by the fees,
2 fines, and civil penalties imposed under the act are
3 not sufficient to meet expenditures over a two-year
4 period, the Board shall increase those fees by
5 regulation so the projected fees will meet or exceed
6 the projected expenses.

7 Mr. Davis referred to the Board's finances from
8 the current period, where the \$175 renewal fee was
9 implemented and the projections, stating the expenses
10 do not eclipse revenue. He explained that there is
11 no requirement to increase fees when expenses do not
12 eclipse revenue, but he reminded the Board of the
13 Professional Licensure Augmentation Account (PLAA),
14 which holds all funds for each of the BPOA licensure
15 boards. He mentioned that when a new board comes to
16 be, it draws start-up funds from that account in
17 order to operate, and section 49 of the practice act
18 requires that the board repay those funds within
19 three years. He noted it is passed three years, and
20 the Board is in the red approximately \$1.7 to \$2
21 million to that account.

22 Mr. Davis noted that when the fee increase was
23 implemented in 2019 and BFO discussed the fee
24 increase, they were discussing repayment to PLAA. He
25 explained that increasing fees at a time when revenue

1 meets or exceeds expenses becomes a policy decision,
2 rather than a legal decision, especially if the
3 prevailing opinion is that raising fees will mean
4 losing licensees.

5 Amanda Richards, Chief of Fiscal Management,
6 Bureau of Finance and Operations, Department of
7 State, commented that the Board has had drastic drops
8 in license counts and expenses are currently not
9 exceeding revenue, but every time licensees drop, it
10 also means revenue would drop as well. She reported
11 checking the numbers this morning and that the Board
12 is in the process of a renewal but are already down
13 1,472 licenses from November.

14 Mr. Davis provided data showing 4,400 licensees
15 from 2011 and 2012, 7,798 in 2013, and around 9,000
16 in 2013 and 2014 and every year after that. He
17 stated BFO provided three choices, including
18 increasing all application fees and not increasing
19 renewal fees and increasing application and renewal
20 fees but by different amounts, and beginning at
21 different renewal cycles.

22 Mr. Davis explained that the application fees
23 could be raised to the level it costs BPOA to process
24 the applications. He suggested the Board raise the
25 application fees to match BPOA's cost to process

1 applications at the very least. He noted the
2 application fee for initial licensure is currently
3 \$100, and BFO suggested the Board increase it to
4 \$113, followed by \$118, and then \$123, which would be
5 a 23 percent increase as of 2031.

6 Mr. Davis commented that according to BFO's
7 estimates, once the renewal fee reaches \$175, revenue
8 is expected to meet or exceed expenses. He mentioned
9 that a renewal fee of \$175 was meant to generate
10 enough revenue to pay back the PLAA in a period of
11 approximately 10 years but according to BFO's current
12 estimates, it does not look like \$175 will be enough
13 to repay the Board's debt to the PLAA.

14 Ms. Richards explained that the \$175 fee would
15 chip away at the Board's debt to the PLAA, but any
16 unanticipated expense would derail that repayment.

17 Mr. Davis reminded the Board it received over 400
18 comments from the licensure community about how upset
19 they were when the Board last increased fees in 2018.

20 He noted concern with raising fees to \$260 or \$305,
21 saying that to do so would almost certainly lower the
22 total licensee count.

23 Mr. Davis commented that the Board has around
24 9,000 licensees and only 120 applications received
25 every year, and it would not be feasible to increase

1 only application fees and expect to repay the Board's
2 debt to the PLAA. He explained that application fees
3 cover the cost to process applications, whereas
4 renewal fees pay for the workings of the Board.

5 Acting Commissioner Claggett commented that
6 increasing the application fee would not be enough
7 and is why it was not an option.

8 Mr. Davis stated the most common comment the last
9 time the Board raised fees was that the Board should
10 lower their salaries and informed everyone that the
11 Board receives \$60 for their attendance at the
12 meeting may receive \$60 the prior day to review
13 materials. He stated this per diem rate is set by
14 statute, and the Board has no control over it. He
15 noted the bulk of the Board expenses go toward
16 prosecution and counsel fees.

17 Mr. Davis reviewed the Board's four options,
18 including not increasing the fees at all; increasing
19 just the application fees to cover the cost of
20 processing applications; adopting the proposed fee
21 increase that starts in 2025 and ultimately peaks at
22 \$260; and the increase that starts in 2027 and peaks
23 at \$305.

24 Mr. Davis explained that one of the hurdles is
25 the Independent Regulatory Review Commission (IRRC)

1 because they review potential regulations on behalf
2 of the legislature to see if it benefits the public.
3 He stated one topic that has been discussed in recent
4 years is IRRC has opined there really is not a
5 requirement to back PLAA.

6 Mr. Davis stated he does not recall a time where
7 a board presented a proposed fee package to IRRC when
8 a board's income meets or exceeds expenses. He
9 explained that if he takes this fee package before
10 IRRC, he would have to say that it is being
11 promulgated just to pay back the PLAA and he believes
12 that under these circumstances, it may be difficult
13 to convince IRRC that it is needed.

14 Mr. Strawser commented that the Board was
15 previously told by someone within the finance world
16 that it would take about 10 years for the Board to
17 repay its debt to the PLAA and asked what happened
18 from then until now.

19 Mr. Davis explained that legal costs have
20 increased, and the licensee count decreased in the
21 time since the last fee increase.

22 Ms. Richards informed Board members that the cost
23 for prosecution and counsel increased in FY18-19.

24 Mr. Davis stated Counsel Division has added a
25 regulatory counsel to help promulgate regulations,

1 and there have been a lot of regulations the last
2 couple of years.

3 Mr. Strawser asked whether his understanding of
4 the Board's current financial situation - that
5 revenue currently meets expenses - and the Board just
6 started its two-year renewal cycle for licensure,
7 noting they received most of the revenue for the next
8 two years.

9 Ms. Richards noted Mr. Strawser to be correct and
10 there may be a renewals that may come in, but that
11 most of the Board's revenue would be in January and
12 February.

13 Mr. Strawser noted the importance of figuring out
14 how to balance the budget and keep the licensees in
15 the state interested in the profession.

16 Ms. Hicks commented that the Board sometimes
17 spends thousands of dollars trying to suspend or
18 revoke a license and asked whether the Board is ever
19 reimbursed for those expenses.

20 Mr. Davis explained that the Board oftentimes
21 collects "costs of investigation," but reminded the
22 Board that costs, fees and fines are a small
23 percentage of the Board's revenue. The Board relies
24 on renewal fees for costs of operation. He further
25 explained that when the Board enlists the aid of the

1 Office of Attorney General (OAG) to enforce civil
2 penalties and costs of investigation, the OAG is paid
3 a percentage of the monies collected.

4 Ms. Douglas commented that it makes sense to
5 increase the application fee to cover the cost to
6 process an application because the salary of the
7 person processing the application increases every
8 year. She commented that massage therapy is not a
9 rich profession, so either one of the proposed
10 escalations over the next four renewals is terrifying
11 and suggested something smaller to continue to chip
12 away. She also mentioned taking the route of not
13 doing anything at all if the Board could get away
14 with that without any consequences.

15 Chair Porambo asked whether the Board could take
16 a look at the numbers after the first year and
17 determine where they stand at that time.

18 Mr. Davis agreed that it would make sense to wait
19 one more renewal cycle to see if the Board is still
20 in the black; however, the renewal fee may increase
21 even more the longer the Board waits.

22 Chair Porambo commented that she had no problem
23 with increasing the initial application fees to cover
24 the expenses of what it costs to process those but
25 believed it was a little early to make the

1 determination on renewals because the Board would
2 have a better idea by the November meeting.

3 Mr. Davis explained that a lot of paperwork goes
4 into regulations and suggested the fee increase on
5 applications and renews should be done all at once.
6 He recommended tabling the fee discussion for a
7 period of one year until after BFO's next
8 presentation.

9 Ms. Richards explained that the fee increase
10 would be higher the longer the Board waits. She
11 reported a significant drop in licensees from FY18-19
12 at 9,104 licenses and 8,044 in 2021. She noted the
13 Board would be looking at the third option of the
14 higher incremental increase if they wait until after
15 October.

16 Mr. Davis commented that each of the options has
17 a goal in mind, and the two options where renewal
18 fees are going up are with the implicit goal of
19 repaying the PLAA ahead. He noted it is a policy
20 decision and comes down to how BPOA wants Boards to
21 treat PLAA, whether it wants to make sure that each
22 board is paying its own way within the PLAA or does
23 it want to recognize that there is some fluidity when
24 it comes to established license categories, where the
25 licensees can afford higher renewal fees compared to

1 the some of the newer, less established licensure
2 categories.

3 Chair Porambo commented that massage therapy is a
4 physical job and most work part-time with an average
5 yearly salary of around \$36,000, so the proposed fees
6 are exorbitant and is a concern.

7 Mr. Davis stated the Massage Therapy Act has a
8 section that says the funds for the initial startup
9 and running of a Board that come from the PLLA will
10 be repaid within a period of three years. He noted
11 not being sure whether they can justify saying that
12 empowers the Board to continuously increase fees in
13 perpetuity in order to accomplish that goal.

14 Mr. Davis stated the only specific authority
15 within massage therapy is based on two-year renewal
16 periods; however, the Commissioner's Office has
17 separate authority to raise fees. He commented that
18 it sounds like the Board is not prepared to make a
19 decision at this meeting.

20 Acting Commissioner Claggett noted the importance
21 of Board members being more open about who they grant
22 licensure to in Pennsylvania and rethink certain
23 ideals to attract people to work in Pennsylvania.

24 Ms. Hicks asked what happens if the Board cannot
25 pay the debt.

1 Mr. Davis stated that, to the best of his
2 knowledge, nothing happens. He mentioned they might
3 ultimately see some legislation that directs each
4 board to pay their fair share within the PLAA, which
5 would ultimately force the Board to increase fees.

6 Ms. Hicks asked whether other boards are in
7 similar situations.

8 Ms. Richards stated their Board is the only Board
9 that has not repaid their money for their startup
10 from PLAA that she is aware of but other boards are
11 in the process of fee increases because of revenue
12 not being enough to cover their expenses.

13 Mr. Davis asked Ms. Richards to provide
14 information regarding other boards that are in the
15 red between now and the next meeting.

16 Ms. Richards explained that other boards are in
17 the red but not for the same reason, noting the Board
18 is in the red due to not being able to pay back their
19 startup money. She reported that quite a few fee
20 increases that have gone through have allowed other
21 Boards to begin repaying their debt to the PLAA.

22 Ms. Richards offered to provide an update on
23 licensees and plug the new licensee numbers in to
24 give an idea of where the Board would be based on
25 that number at the April meeting.

1 Mr. Davis commented that this is a new Board and
2 most of the other boards are established and have
3 been able to pay off their initial startup fees.

4 Chair Porambo commented that the Board is one of
5 the last boards established, noting massage therapy
6 is also very different as far as fitting into the
7 health care world with insurance and a variety of
8 other things and programs that are appealing and
9 affordable to the practice.

10 Mr. Davis suggested tabling the fee increase
11 discussion.

12 Chair Porambo thanked Ms. Richards.]

13

14 Report of Board Counsel - Act 35 of 2022 - Military
15 and Veterans' Licensure

16 [Thomas M. Davis, Esquire, Board Counsel, noted
17 Acting Commissioner Claggett has been introducing the
18 boards to Act 35 of 2022.

19 Acting Commissioner Claggett informed Board
20 members that Act 35 provides expedited application
21 review for service members, veterans, and military
22 spouses. He stated that application types included
23 in the expedited review are initial applications,
24 renewal applications, and reactivation applications.

25 Acting Commissioner Claggett noted Act 35 gives

1 them the ability to waive the initial application fee
2 for spouses when they are required to move due to
3 military orders. He mentioned that the fee waiving
4 functionality in PALS is not available and that
5 refunds would be issued.

6 Acting Commissioner Claggett noted Act 35 also
7 has directed them to create a military crosswalk
8 explaining how military experience transfers over to
9 licensure and is available on the Board web pages.

10 Acting Commissioner Claggett stated that Act 35
11 also gives them the ability to provide temporary
12 permits for applicants whose military experience may
13 be lacking something needed for licensure.

14 Mr. Davis also addressed Act 35, noting it allows
15 for a temporary license to be issued while the
16 military applicant completes additional requirements
17 for license in the commonwealth. He noted the
18 temporary license would be valid for six months or
19 until conditions are met and provided an example. He
20 mentioned it is similar to Act 41 of 2019 on certain
21 issues but a new way for veterans and their spouses.

22
23 Mr. Davis asked the Board to think about whether
24 there was anything the Board could regularly waive or
25 not have an issue with waiving, like some of the hour

1 requirements for education or possibly
2 cardiopulmonary resuscitation (CPR) requirements or
3 something along those lines. He mentioned they could
4 bring military licenses before the Applications
5 Committee as a possibility.

6 Acting Commissioner Claggett noted that expedited
7 applications would come through the Board. He
8 mentioned an additional question for people applying
9 for their initial application, renewal, and
10 reactivation that will identify them as a service
11 member.]

12 ***

13 Report of Board Counsel
14 Record for Deliberation

15 MR. DAVIS:

16 Moving on to number 8. This is a
17 matter that was discussed in Executive
18 Session, so I know how the Board is
19 considering voting on this one, and I
20 will read a prepared motion.

21 Based on the Board's discussions in
22 Executive Session, I believe the Chair
23 would entertain a motion to grant the
24 Motion to Deem Facts Admitted and Enter
25 Default and direct Board Counsel to

1 prepare and Adjudication and Order in
2 accordance with the discussion in
3 Executive Session in the matter of
4 Commonwealth BPOA v. Heather Renee
5 Caldwell, LMT, Case No.21-72-014970.

6 CHAIR PORAMBO:

7 I need a motion?

8 MR. STRAWSER:

9 I'll make the motion.

10 CHAIR PORAMBO:

11 A second, please?

12 MS. DOUGLAS:

13 I'll second the motion.

14 MR. KELLER:

15 Porambo, aye; Claggett, aye; Douglas,
16 aye; Hicks, aye; Keth, aye; Alumbro
17 Shade, aye; Strawser, aye.

18 [The motion carried unanimously.]

19 ***

20 Report of Acting Commissioner

21 [Arion R. Claggett, Acting Commissioner, Bureau of
22 Professional and Occupational Affairs, informed
23 everyone of new functionality being added to the
24 Pennsylvania Licensing System (PALS) sometime around
25 May to notify licensees their actual license has

1 expired. He stated that anyone whose license expires
2 now would receive an email notification alerting them
3 the license expired.]

4

5 Report of Board Administrator

6 Applications

7 MR. DAVIS:

8

Numbers 11 through 17. I do have

9

prepared motions in relation to each of

10

these.

11

Based upon discussions in Executive

12

Session, for number 11, this was

13

discussed, and the Board administrator

14

will be reaching out to the applicant,

15

so there is no vote necessary there.

16

17 MR. DAVIS:

18

Number 12. Based on the Board's

19

discussions in Executive Session, I

20

believe the Chair would entertain a

21

motion to provisionally deny the

22

Application for a License as a Massage

23

Therapist of Tricia Flagg.

24 CHAIR PORAMBO:

25

Is there a motion?

1 MR. STRAWSER:

2 I'll make the motion.

3 CHAIR PORAMBO:

4 Second?

5 MS. DOUGLAS:

6 I'll second the motion.

7 MR. KELLER:

8 Porambo, aye; Claggett, aye; Douglas,
9 aye; Hicks, aye; Keth, aye; Alumbro
10 Shade, aye; Strawser, aye.

11 [The motion carried unanimously.]

12 ***

13 MR. DAVIS:

14 Moving on to number 13. Based on the
15 Board's discussions in Executive
16 Session, I believe the Chair would
17 entertain a motion to provisionally
18 deny the Application for Licensure as a
19 Massage Therapist of Sara Schmieder.

20 CHAIR PORAMBO:

21 Is there a motion?

22 MR. STRAWSER:

23 I'll make the motion.

24 CHAIR PORAMBO:

25 Second?

1 MS. DOUGLAS:

2 I'll second the motion.

3 MR. KELLER:

4 Porambo, aye; Claggett, aye; Douglas,
5 aye; Hicks, aye; Keth, aye; Alumbro
6 Shade, aye; Strawser, aye.

7 [The motion carried unanimously.]

8 ***

9 MR. DAVIS:

10 Moving to number 14 on the Board's
11 agenda. Based on the Board's
12 discussions in Executive Session, I
13 believe the Chair would entertain a
14 motion to approve the following
15 continuing education course: Rules and
16 Regulations in Pennsylvania presented
17 by Frank J. Pileggi, LMT.

18 CHAIR PORAMBO:

19 Do I have a motion?

20 MR. STRAWSER:

21 I'll make a motion.

22 CHAIR PORAMBO:

23 Second?

24 MS. DOUGLAS:

25 I'll second the motion.

1 MR. KELLER:

2 Porambo, aye; Claggett, aye; Douglas,
3 aye; Hicks, aye; Keth, aye; Alumbro
4 Shade, aye; Strawser, aye.

5 [The motion carried unanimously. Counsel has been
6 directed to tell Mr. Pileggi that he must inform each
7 class that while the course has been approved by the
8 Board, the views and opinions taught therein are that
9 of the course provider and are not specifically
10 endorsed by the Board.]

11 ***

12 MR. DAVIS:

13 Moving to number 15. That was tabled.
14 The Board administrator will be
15 reaching out.

16 ***

17 MR. DAVIS:

18 Moving on to number 16. Based on the
19 Board's discussions in Executive
20 Session, I believe the Chair would
21 entertain a motion to approve the
22 Application for Licensure as a Massage
23 Therapist of Devorah Kran.

24 CHAIR PORAMBO:

25 Motion?

1 MR. STRAWSER:

2 I'll make the motion.

3 CHAIR PORAMBO:

4 Second?

5 MS. DOUGLAS:

6 I'll second the motion.

7 MR. KELLER:

8 Porambo, aye; Claggett, aye; Douglas,
9 aye; Hicks, aye; Keth, aye; Alumbro
10 Shade, aye; Strawser, aye.

11 [The motion carried unanimously.]

12 ***

13 MR. DAVIS:

14 Number 17 on the Board's agenda. Based
15 on the Board's discussions in Executive
16 Session, I believe the Board Chair
17 would accept a motion to issue a
18 provisional license, and this Applicant
19 must successfully pass the MBLEx in the
20 next year.

21 CHAIR PORAMBO:

22 Do I have a motion?

23 MR. STRAWSER:

24 I'll make the motion.

25 CHAIR PORAMBO:

1 Second?

2 MS. DOUGLAS:

3 I'll second the motion.

4 MR. KELLER:

5 Porambo, aye; Claggett, aye; Douglas,
6 aye; Hicks, aye; Keth, aye; Alumbro
7 Shade, aye; Strawser, aye.

8 [The motion carried unanimously.]

9 ***

10 Correspondence

11 Waiver Requests

12 MR. DAVIS:

13 Numbers 18 through 46 are Waiver
14 Requests for continuing education. At
15 the Board's last meeting, we recognized
16 we got down to the 60-day time frame,
17 in which the Board would be denying
18 requests for continuing education
19 waivers, so the Board empowered the
20 Applications Committee to make the
21 decision based upon discussions with
22 Board Admin and Board Counsel.

23 What we are doing now is we are
24 asking the Board to ratify the decision
25 of the Applications Committee.

1 Discussion on these matters happened
2 during Executive Session and the Board
3 now will now be able to vote.

4 Based on the Board's discussions in
5 Executive Session, I believe the Chair
6 would accept a motion ratifying the
7 Applications Committee's decision to
8 deny the Request for Waiver of all or
9 part of the continuing education
10 requirements of the following
11 individuals: Beverly Anderson, Vanessa
12 Baker, Emily Brown, Jason DiCola,
13 Amanda Evans, Jasmine Exume, Emily
14 Fisher, Julie Geyer, Elizabeth Haufler,
15 Lisa Hill, Rosemarie Hoffman, Shiela
16 Konn, Jodie Machesky, Michelle Muth,
17 Leona Oleaga, Svetlana Opalenek,
18 Jacqueline Peters, Kalie Pierzga, Laura
19 Pudloski, Heidi Puppo, Shawn Swank,
20 Alma Trieu.

21 CHAIR PORAMBO:

22 Do I have a motion?

23 MR. STRAWSER:

24 I'll make the motion.

25 CHAIR PORAMBO:

1 Second?

2 MS. DOUGLAS:

3 I'll second the motion.

4 MR. KELLER:

5 Porambo, aye; Claggett, aye; Douglas,
6 aye; Hicks, aye; Keth, aye; Alumbro
7 Shade, aye; Strawser, aye.

8 [The motion carried unanimously.]

9 ***

10 MR. DAVIS:

11 Based on the Board's discussions in
12 Executive Session, I believe the Chair
13 would accept a motion ratifying the
14 Applications Committee's decision to
15 approve the Request for Waiver of all
16 or part of the continuing education
17 requirements of the following
18 individuals: Rebecca Cordell, Ann
19 Czajkowski, Joan Heim, Judith Hendin,
20 Kelly Sklodowski.

21 CHAIR PORAMBO:

22 Do I have a motion?

23 MR. STRAWSER:

24 I'll make the motion.

25 CHAIR PORAMBO:

1 Second?

2 MS. DOUGLAS:

3 I'll second the motion.

4 MR. DAVIS:

5 In accordance with the recommendation
6 of medical professionals and evidenced
7 by letters from medical professionals,
8 these licensees may obtain 100 percent
9 of their continuing education via
10 online computer-based continuing
11 education.

12 MR. KELLER:

13 Porambo, aye; Claggett, aye; Douglas,
14 aye; Hicks, aye; Keth, aye; Alumbro
15 Shade, aye; Strawser, aye.

16 [The motion carried unanimously.]

17 ***

18 MR. DAVIS:

19 Based on the Board's discussions in
20 Executive Session, I believe the Chair
21 would accept a motion ratifying the
22 Applications Committee's decision to
23 deny the Request for Waiver of all or
24 part of the continuing education
25 requirements of the following

1 individuals at numbers 45 and 46, which
2 are Renee Wachter and Patricia
3 Wollschlager.

4 CHAIR PORAMBO:

5 Do I have a motion?

6 MR. STRAWSER:

7 I'll make the motion.

8 CHAIR PORAMBO:

9 Second?

10 MS. DOUGLAS:

11 I second the motion.

12 MR. KELLER:

13 Porambo, aye; Claggett, aye; Douglas,
14 aye; Hicks, aye; Keth, aye; Alumbro
15 Shade, aye; Strawser, aye.

16 [The motion carried unanimously.]

17 ***

18 Report of Board Chair - No Report

19 ***

20 Miscellaneous - Proposed 2024 Board Meeting Date

21 [Nancy M. Porambo, MS, LMT, CNMT, NCTMB, Chair,
22 Professional Member, noted the remaining 2023 meeting
23 dates are June 7, August 1, September 18, and
24 November 14.

25 Chair Porambo also noted 2024 meeting dates are

1 February 13, April 2, June 4, August 13, September
2 24, and December 3.]

3 ***

4 Miscellaneous - Approval for Board Administrator to
5 Attend the FSMTB Executive Summit

6 CHAIR PORAMBO:

7 We are going to need a vote to approve
8 the Board administrator to attend the
9 FSMTB Executive Summit April 27-28,
10 2023, in Denver, Colorado.

11 I need a motion.

12 MR. STRAWSER:

13 I'll make the motion.

14 CHAIR PORAMBO:

15 Second?

16 MS. DOUGLAS:

17 I'll second the motion.

18 MR. KELLER:

19 Porambo, aye; Claggett, aye; Douglas,
20 aye; Hicks, aye; Keth, aye; Alumbro
21 Shade, aye; Strawser, aye.

22 [The motion carried unanimously.]

23 ***

24 Adjournment

25 CHAIR PORAMBO:

1 I'd like to entertain a motion to
2 adjourn.

3 MR. STRAWSER:

4 I'll make the motion.

5 CHAIR PORAMBO:

6 Second?

7 MS. DOUGLAS:

8 I'll second.

9 CHAIR PORAMBO:

10 Thank you everyone for attending. We
11 appreciate your attendance. Everybody
12 have a great day.

13 ***

14 [There being no further business, the State Board of
15 Massage Therapy Meeting adjourned at 1:14 p.m.]

16 ***

17

18

19

20

21

22

23

24

25

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Massage Therapy Meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Massage Therapy Meeting.



Kelly L. Dunn,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF MASSAGE THERAPY
REFERENCE INDEX

February 14, 2023

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8	9:00	Executive Session
9	10:30	Return from Executive Session
10		
11	11:22	Official Call to Order
12		
13	11:22	Introduction of Board Members/Attendees
14		
15	11:25	Approval of Minutes
16		
17	11:26	Appointment - Carolyn A. DeLaurentis,
18		Esquire, Executive Deputy Chief
19		Counsel, Department of State, Annual
20		Prosecutorial Division Presentation
21		
22	11:50	Report of Board Prosecutors
23		
24	11:54	Report of Board Regulatory Counsel
25		
26	12:52	Report of Board Counsel
27		
28	12:57	Report of Acting Commissioner
29		
30	12:58	Report of Board Administrator
31		
32	1:06	Correspondence
33		
34	1:11	Miscellaneous
35		
36	1:14	Adjournment
37		
38		
39		
40		
41		
42		
43		
44		
45		
46		
47		
48		
49		
50		